

U.S.C. 3720A through referral for centralized administrative offset under § 3.44.

**§ 3.47 Offset against amounts payable from Civil Service Retirement and Disability Fund.**

Upon providing the Office of Personnel Management (OPM) written certification that a debtor has been afforded the procedures provided in § 3.41, creditor agencies may request OPM to offset a debtor's anticipated or future benefit payments under the Civil Service Retirement and Disability Fund (Fund) in accordance with regulations codified at 5 CFR 831.1801 through 831.1808. Upon receipt of such a request, OPM will identify and "flag" a debtor's account in anticipation of the time when the debtor requests, or becomes eligible to receive, payments from the Fund. This will satisfy any requirement that offset be initiated prior to the expiration of the time limitations referenced in § 3.40(e).

**Subpart E—Administrative Wage Garnishment**

SOURCE: 73 FR 4, Jan. 2, 2008, unless otherwise noted.

**§ 3.50 Purpose.**

This subpart provides USDA procedures for use of administrative wage garnishment to garnish a debtor's disposable pay to satisfy delinquent nontax debt owed to USDA creditor agencies.

**§ 3.51 Scope.**

(a) This subpart applies to any agency that administers a program that gives rise to a delinquent nontax debt owed to the United States and to any agency that pursues recovery of such debt.

(b) This subpart shall apply notwithstanding any provision of State law.

(c) Nothing in this subpart precludes the compromise of a debt or the suspension or termination of collection action in accordance with the provisions of this part or other applicable law.

(d) The receipt of payments pursuant to this subpart does not preclude an agency from pursuing other debt col-

lection remedies under this part. An agency may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment.

(e) This subpart does not apply to the collection of delinquent nontax debt owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the salary offset procedures of subpart G of this part.

(f) Nothing in this subpart requires agencies to duplicate notices or administrative proceedings required by contract or other laws or regulations, or other provisions of this part.

**§ 3.52 Definitions.**

As used in this subpart the following definitions shall apply:

*Disposable pay* means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this section, "amounts required by law to be withheld" include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

*Employer* means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local governments, but does not include an agency of the Federal government.

*Garnishment* means the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

*Withholding order* means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body. For purposes of this section, the terms "wage garnishment order" and "garnishment order" have the same meaning as "withholding order."

**§ 3.53 Procedures.**

(a) USDA has determined to pursue administrative wage garnishment of

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USDA debtors by referral of nontax legally enforceable debts to Treasury for issuance of garnishment orders by Treasury or its contractors.

(b) Pursuant to § 3.11, agencies must notify debtors of their intent to pursue garnishment of their disposable pay through referral of the debt to Treasury for issuance of an administrative wage garnishment order and provide debtors with the opportunity for review of the existence of the debt under subpart F within 60 days of the date of the demand letter.

(c) Upon expiration of the 60-day period for review, or upon completion of a review under subpart F that upholds the agency's determination of the debt, USDA will transfer the debt for collection through administrative wage garnishment as well as other means through cross-servicing or centralized administrative offset.

(d) If Treasury elects to pursue collection through administrative wage garnishment, Treasury, or its contractor, will notify the debtor of its intent to initiate garnishment proceedings and provide the debtor with the opportunity to inspect and copy agency records related to the debt, enter into a repayment agreement, or request a hearing as to the existence or amount of the debt or the terms of the proposed repayment schedule under the proposed garnishment order, in accordance with 31 CFR 285.11.

(e) If the debtor requests a hearing at any time, Treasury will forward the request to the USDA creditor agency to which the debt is owed, and the creditor agency will contact the Office of the CFO (OCFO) for selection of a hearing official. The issuance of proposed garnishment orders by Treasury shall not be subject to appeal to NAD under 7 CFR part 11. Hearings will be conducted in accordance with 31 CFR 285.11(f).

(f) OCFO shall provide a copy of the hearing official's final decision to Treasury for implementation with respect to the subject garnishment order.

### 7 CFR Subtitle A (1-1-14 Edition)

#### Subpart F—Administrative Reviews for Administrative Offset, Administrative Wage Garnishment, and Disclosure to Credit Reporting Agencies

SOURCE: 73 FR 4, Jan. 2, 2008, unless otherwise noted.

##### § 3.60 Applicability.

(a) This section establishes consolidated administrative review procedures for debts subject to administrative offset, administrative wage garnishment, and disclosure to credit reporting agencies, under subparts D and E. A hearing or review under this section shall satisfy the required opportunity for administrative review by the agency of the determination of a debt for both administrative offset and administrative wage garnishment that is required before transfer to Treasury for collection or collection by the agency through non-centralized administrative offset.

(b) For debt collection proceedings initiated by FSA, CCC, the Rural Housing Service, the Rural Business-Cooperative Service, the Risk Management Agency, the Federal Crop Insurance Corporation, the Natural Resources Conservation Service, Rural Development, and the Rural Utilities Service (but not for programs authorized by the Rural Electrification Act of 1936 or the Rural Telephone Bank Act, 7 U.S.C. 901 *et seq.*), unless otherwise specified, any administrative review will be conducted by NAD in accordance with 7 CFR part 11 and not the procedures of this subpart.

##### § 3.61 Presiding employee.

An agency reviewing officer may be an agency employee, or the agency may provide for reviews to be done by another agency through an interagency agreement. No agency employee may act as a reviewing officer for the consideration of collection by administrative offset in a matter for which the employee was a contracting officer or a debt management officer.

##### § 3.62 Procedures.

(a) A debtor who receives a Notice of Intent to Collect by Administrative